



SASKATCHEWAN

REPORT
OF THE
OMBUDSMAN

PERIOD 1 JANUARY 1987 – 31 DECEMBER 1987

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FIFTEENTH ANNUAL REPORT

"The Ombudsman's Powers, far from being formidable, are in reality quite limited. The Ombudsman may only investigate, recommend and publicize. His recommendations are binding on no one; he has no power to overrule the decisions of government officials. Nor can he bring a punitive action for official malfeasance. Clearly, he cannot impede the functioning of those with whom he deals.

In my view, the phrase "a matter of administration" encompasses everything done by governmental authorities in the implementation of government policy. I would exclude only the activities of the legislature and the courts from the Ombudsman's scrutiny."

*B.C. Dev. Corp. v. Friedmann
(S.C.C.) [1985] 1 W.W.R. 193, per
Dickson, C. J., at p. 216.*

OMBUDSMAN



SASKATCHEWAN

2310 Scarth Street Regina, Canada S4P 3V7 (306) 565-6211

The Honourable The Speaker
of the Legislature
Province of Saskatchewan
Legislative Buildings
REGINA, Saskatchewan

Dear Mr. Speaker:

It is my duty and privilege to submit to you and to the Legislature,
the fifteenth Annual Report of the Saskatchewan Ombudsman,
submitted in accordance with the provisions of subsection (1) of
section 30 of *The Ombudsman Act*.

Yours sincerely

Ombudsman

OMBUDSMAN

Gerald Peter McLellan

Gerald McLellan was appointed Acting Ombudsman for the Province of Saskatchewan effective April 1987. In August he was officially appointed the Provincial Ombudsman.

Mr. McLellan was born and raised in Arcola where he completed his elementary and secondary education. He then entered the University of Saskatchewan where he received his Bachelor of Commerce degree in 1953 and the Bachelor of Law degree in 1958. Mr. McLellan was admitted to the Saskatchewan Bar Association in 1959 and he went on to practise law in Estevan for 22 years where he was the senior partner with McLellan, Cundall and Bridges.

PART I
OVERVIEW

PART I

OVERVIEW

As was reported in the last Annual Report, David Tickell completed his last full year as Ombudsman as of December 31, 1986 and officially left the office in early April 1987, which was the expiry date on his second five year appointment.

I know I speak for the entire office when we wish him well in whatever endeavours his life may lead him to in the coming years.

It will be a difficult task for me to try and continue his mandate, but hopefully, with the aid of the excellent staff he left behind, the office will continue to serve the people of this province in a very major way.

I am still very much taken up with getting to know the office staff and routines and familiarizing myself with some of the ongoing files.

Additionally, it is a major task to try and meet, and get to know, some of the government and crown corporation personnel with whom the office must regularly deal in attempting to resolve the many problems referred to the Ombudsman.

The office will, during the middle months of 1988, travel to a number of the larger centres of the province in an effort to reach as many of the citizens of Saskatchewan as possible, and to inform them as best as we can of the various areas where we might be able to assist them in their dealings with the bureaucracy.

Having been in this post only a few months, it is my present impression that one of the major problem areas between the Office of the Ombudsman and the bureaucracy is that government officials seem overly sensitive to our investigations and almost automatically feel they are in a confrontation situation when contacted by the office. It is true that we become advocates for the complainant once it is felt a complaint is substantiated, but this is not the case when the investigation commences and during its progress. We do not, nor do we want to, operate on an adversarial basis and it is my hope that we can make substantial progress in developing an atmosphere of mutual respect, if not of mutual trust, between the Ombudsman's Office and the bureaucracy in the investigation of complaints. It would be useful to have the

government recognize that we are both basically concerned with the proper and equitable delivery of government services to the people of this province. If we can communicate this to departmental officials and can assure them that we are not "head-hunting" or acting unfairly in the way we go about our business, then I am sure we can develop a relationship which will enhance our efforts in successfully making meaningful recommendations.

In terms of numbers, 1987 was much on a par with 1986, with only minor variations, except for a drop of 48 (26%) in complaints against the Workers' Compensation Board — from 183 to 135 and an increase of 27 (44%) in complaints against the Saskatchewan Power Corporation — from 61 to 88. Elsewhere it is a few up or a few down with the total of 1,242 somewhat down from 1,325 last year. However, there was a noticeable hiatus while the office's future was under review prior to the 1987/88 provincial budget, and July's crop of complaints was unusually low. Overall, however, business has been much as usual and this applies also to the closing end of the process. The figures for 1987 in the summary of complaints closed are very close indeed to the figures for the previous year.

Complaints against other than provincial government departments and agencies continued quite high and the office is clearly still viewed by many as a general helping agency. With such complaints our intake staff will refer the individual to the most appropriate recourse and will try to dispel the feeling that this is just another step in the big runaround.

At the beginning of 1987 my predecessor, David Tickell, issued a report on children in the care of the Department of Social Services, identifying a number of problems that had come to notice through the investigation of various complaints and he made several recommendations for the Minister's consideration.

While there has been no direct response on the specific recommendations, there have been welcome signs of activity on the government's side of the equation and the departmental study of the issues, the long awaited child in care review, produced its

report in April of 1987. This was a comprehensive survey of the problems, the services and service systems, complete with 146 recommendations with a welcome emphasis on foster home selection, standards of care in foster homes and on support and training for foster parents.

Information from Social Services is that a plan has already been developed which reflects a serious intent to implement the major recommendations of the child in care review. Work has already been done on clarifying philosophy, roles and responsibilities, on the development of standardized investigation procedures, on a new orientation process for foster care applicants and on improved training for foster parents in the areas of abused children, attachment and separation and drug and alcohol abuse.

While there is much ground yet to be covered, while intention and implementation are two different things, and while the specific issue of corporal punishment is somewhat submerged in the consideration of "unacceptable child management practices" — although it is evident foster parents and child care workers alike would welcome some clear direction in this regard — there is no doubt that steps are being taken in the right direction and the department is to be commended for working positively towards improvements in the foster care system.

However, my office will continue to "monitor" the situation through our case involvement and experience and we will be taking a keen interest in the progress of the Foster Care Program Initiative.

NATIONAL OMBUDSMAN CONFERENCE

The 1987 annual conference was hosted by Alberta, in Edmonton, from September 13th to 16th, 1987. This was my first Ombudsman conference and proved an interesting and informative experience. It was an excellent introduction to the business for a new Ombudsman and provided a valuable insight to the complexities, commitment and common concerns of Ombudsmen across the country.

Given Edmonton's proximity, I was pleased to have with me the office solicitor and four staff members. I know that we all benefitted from the excellent program presented by Acting Ombudsman Marcel Arcand.

EFFECTIVENESS

A common question for an Ombudsman is, "Just how effective are you in dealing with the government on the ordinary citizen's behalf?" This was a question that also piqued my curiosity on joining the office, and the statistics are quite instructive. Consider the figures for complaints closed in 1987. Of 1,332 files 798 were discontinued and 12 were found to be outside our jurisdiction. This 61% of closings represents chiefly complaints that are brought to us prematurely, where a decision has not yet been made by the government agency or where there is an appeal process available which has not been followed. Included also are complaints which just do not warrant the effort, time and expense of an investigation, such as minor disputes about utility billing where, for example, arrears are not in dispute but the complainant is essentially looking for some leverage in dealing with the corporation over a demand for payment. In such cases the Ombudsman has a discretion to decline to investigate and this type of situation would be dealt with by our Intake Officers acting as facilitators in getting both sides together to negotiate a reasonable and mutually acceptable payment plan.

Another 251 of the total were actually investigated but found not substantiated. This means that the cases have been investigated, but the Ombudsman concluded that the complainants were not treated unfairly and he had no grounds for making any representation to the government on their behalf.

In these 1,061 cases the complaints were reviewed/investigated by this office but no recommendations proceeded and the Ombudsman's effectiveness in dealing with the government cannot be assessed in relation to these figures.

However, of the total of 1,332 cases closed last year, 271 were "taken" to the government on the clients behalf, either formally or informally. These are cases where the Ombudsman adopted an advocate's hat and sought to find a resolution. Of these, 243 (90% of the 271) were concluded to the complainants', and our, satisfaction, and 10% were unresolved, where the government did not accept our arguments.

What all this says is that the Ombudsman initially examines all complaints from an impartial standpoint to determine whether they warrant investigation (are they premature, outside our jurisdiction, etc.) and, where investigated, to decide whether or not the complaint is substantiated. To that point 79% were concluded

without any recommendation, but that does not mean that the individual complainants were not justified in bringing their concerns to our attention. Anyone with concerns about the government's decision or action in a particular case is entitled to have the Ombudsman review the matter, and many such approaches arise from confusion about the government's policy or powers, and/or from an understandable lack of knowledge about appeal and other review processes.

The remaining 21% of cases closed in 1987 saw the Ombudsman dealing with government on the client's behalf and of this figure of 271 cases, 90% were settled in favour of the complainant — or at least produced a result that was satisfactory, in our view.

Of course, the results we get depend largely on what comes through the door in the way of complaints, because the facts in each case will either support or refute the complaint, but I think it can be fairly stated that the Ombudsman is effective in acting for complainants, within the terms of his mandate, and I am satisfied from even my short tenure to date that the office does provide a valuable service to the people of this province — to citizens and government alike.

BUDGET

	1984-85	1985-86	1986-87	1987-88
Salaries	\$552,860	\$553,890	\$533,030	\$500,700
Investigator and other travel expenses	18,100	15,410	13,510	16,110
Other contractual services	77,860	76,710	78,240	148,775
Material, supplies and equipment	7,320	7,780	8,080	9,415
	<u>\$656,140</u>	<u>\$653,790</u>	<u>\$632,860</u>	<u>\$675,000</u>

During the past three fiscal years, the Ombudsman's annual budget has continued to decrease modestly. Members will note that there has been an increase in the overall funding for the 1987-88 fiscal year. However, you will also note that monies allocated for salaries has been reduced considerably while those destined for our general operational requirements appear to have increased dramatically. The reduction in salaries is a direct result of a reduction in staff from 15.4 person years to 13.4 person years — a loss of two permanent positions. The position of Assistant to the Ombudsman became vacant on January 31, 1987, when the

incumbent reached age 65 and went to retirement. The other, a clerk-typist position, became vacant in late February when she resigned to take other employment. Our requests to fill these two permanent positions were denied by the staffing committee and consequently were vacant on March 31, 1987. On April 1, 1987 they were deleted from our establishment as they were vacant and therefore targeted by Cabinet as part of the vacancy reduction exercise undertaken by government.

The apparent large increase in our operational budget is deceptive. Prior to this budget year, our rental of office accommodation and postage was paid out on our behalf by the former Department of Revenue, Supply and Services. The newly designated Property Management Corporation transferred \$70,700 from its appropriation into our budget to cover off those two expenditures. When this amount is deducted from our present operational budget of \$174,300 we have \$103,600 which is an increase of \$3,770 over our budget for the previous fiscal year. This is a very modest amount when one has to consider general increases have occurred in travel, accommodation, telephone service, equipment leasing and other necessary expenditures in the day-to-day operation of our offices. Expenditures on personal service items (salaries) are modest and budgetary restrictions as well as stringent internal controls have kept our spending to a minimum. A great deal of our non-salaried items are fixed and cannot be eliminated.

Restraint remains the key word in the budget process. Despite a reduction in our 1987-88 budget from the monies allocated in 1986-87 for salaries, we will show some dollar savings in this expenditure code at the end of this fiscal year. When my executive secretary elected to accept early retirement at the end of May, her position remained vacant for over five months while we were awaiting approval from the staffing committee to fill the position and for completion of the selection process. Too, your Ombudsman received only partial salary during the initial period following his appointment as Acting Ombudsman when he was, with government approval, winding down his law practice. Some savings realized in our salary budget were offset to some extent because of a severance pay package, temporary performance at higher duties, reclassification of a position and the awarding of performance pay.

The statutory mandate of the Ombudsman's office dictates that we assist the residents of Saskatchewan by impartially and objectively responding to and investigating complaints with respect to

administrative acts of provincial government departments and agencies, and recommend corrective action where necessary. Accessibility to our office by the public is an important consideration in meeting this obligation. Any reduction in our budget from this year would seriously limit our ability to provide this service to the public.

STAFF

In taking up the position of Ombudsman I was fortunate indeed to inherit a very experienced staff who have taken the change to a new Ombudsman in their stride, and with no interruption in the handling of our complaints. However, the 1987 budget did see a reduction in our complement of two permanent positions (as noted under Budget, above). The Assistant's position in Regina was recovered by way of reclassification of the Chief Investigator's position, which had taken on the Assistant's duties, but the Chief Investigator position is now lost.

Comings and goings in 1987 saw the departure of W. Kenneth Barker, Assistant to the Ombudsman (Regina) and Joan Uhren, Executive Secretary, and the arrival of Debbie Carpentier in November as Ms. Uhren's replacement. In Saskatoon, Janice Gingell completed a term of job-sharing with Glenda Cooney, who returned as a full time investigator in September. We were pleased to have Lucille Eldridge, a student from the Indian School of Social Work, on a practicum placement in Saskatoon from January to April 1987.

The staff are obviously the backbone of any organization and more often than not they toil in obscurity. I do feel that it helps to know a little something about the human aspects of an operation — these are real people — and to this end I present some short biographies of our current personnel.

Gordon K. Mayer — Solicitor (Regina)

A native Saskatchewanian, Gord received his law degree from the University of Saskatchewan in 1972 and was admitted to the Law Society of Saskatchewan in 1973. He practised law with William Tufts until 1975 when he joined Regina Community Legal Services.

In 1977 Gord joined the staff of the Ombudsman's office as staff solicitor and is responsible for the overall operation of the Ombudsman's office.

Gord is married, to Stacy, and has two children, a daughter Rory and a new son Jordan. He is an avid golfer and during the summer months can be found enjoying the sun at his cottage on Long Lake.

Earl McKeen — Assistant (Regina)

Earl was born in Regina in 1928 and moved to northern Alberta and British Columbia in 1937.

Following high school and a stint in the Canadian Navy he became a police officer and the next 25 years were spent in police work and special investigation units.

Earl joined the Office of the Ombudsman in September 1977 as an investigator, being promoted to Chief Investigator in 1983 and to Assistant to the Ombudsman in 1987.

Married with five sons, three daughters and sixteen grandchildren, his hobbies are commercial art and sign writing. He has retired from active team sports (hockey, baseball, la crosse and football) but still, manages to get in some fishing from time to time.

Murray Knoll — Investigator (Regina)

Murray is a local product, being born and raised in the Regina and surrounding rural areas.

He now has seven years experience as an Ombudsman Investigator in the Regina office. Murray has an Honours Degree in Psychology with majors in counselling and social psychology.

His prior work experience includes over six years as a parole officer with the Federal Government, plus shorter periods with the Department of Indian Affairs and Canadian Penitentiary Service.

Leisure activities include two sons, one of whom is an accomplished hockey player and speed skater; plus curling, tennis and golf — as time permits.

Bob Smerchinski — Investigator (Regina)

Bob began working with the office as an Investigator in 1985. He was previously a member of the R.C.M.P. for nine years — 1967 to 1976 — but since then has acquired a Bachelor of Arts in

Criminology from Simon Fraser (1982) and an LL.B. from the University of Saskatchewan (1985).

Carol Spencer — Intake Officer (Regina)

Carol is Regina born and bred and received her education locally, having a Bachelor of Arts Degree from the University of Regina and being currently enrolled in the University's School of Human Justice.

Prior to joining our office as Intake Officer, in 1980, Carol was employed in a variety of private and public sector positions, in the public relations, research and human services fields.

She has a strong interest in community justice and adaptive community rehabilitation programming and has been actively involved with the Community Corrections Volunteer Program in the area of family life education. Her commitment to the community is also reflected in her involvement with the Regina United Way.

Mary Ann McKay — Secretary (Regina)

Mary Ann, who has been with the Regina office since September of 1985, was born in Assiniboia and lived in the surrounding area until 1961. Her family then moved to Thompson, Manitoba and resided there until 1972.

Mary Ann took an upgrading course in 1979 and took her secretarial course with Reliance College of Business, here in Regina. After graduating from the course she began working for the Office of the Rentalsman, as a temporary employee. In 1980 she accepted a permanent position with the Alcoholism Commission, but moved back to the Rentalsman's Office that same year and subsequently transferred to the Department of Agriculture in 1984. She finds that working with the public is generally rewarding and provides a daily challenge.

Gil Thomson — Assistant (Saskatoon)

Gil has been with this office since January 1974 and has been in charge of the Saskatoon office since October 1975.

A transplanted Scot, Gil hails from Glasgow, Scotland. Educated in the United Kingdom he served for four years with the Royal Air Force and was then with the London Metropolitan Police for ten years before coming to Canada.

He has been and still is very active in community service in Saskatoon and by way of personal interests has become considerably involved with music.

Glenda Cooney — Investigator (Saskatoon)

Glenda was born in and raised in Saskatchewan, has a Bachelor of Arts Degree in History/Sociology from the University of Saskatchewan and received her post graduate training in psychology and criminology in Alberta.

She has worked in the areas of addiction research, legal aid, community development and corrections. Besides her family, Glenda is a committed community volunteer with an aim of making this world a better place in which to live — or at least trying.

She has been employed with the office for eight years and suggests that she remains with us to ensure that we all keep a sense of humour.

Joni Sereda — Investigator (Saskatoon)

Joni has been employed with the Office of the Ombudsman since October of 1982, initially as Intake Officer, and as an Investigator since September of 1985.

She has a Bachelor of Arts in Sociology and also a Bachelor of Social Work Degree. Her previous experience includes employment as a probation officer, a hospital social worker and child protection worker.

Joni has been involved with the Big Brothers Organization since 1980 and is currently a member of their Saskatoon Board. Her interests include cycling, cross country skiing and gardening.

Laura Cook — Intake Officer (Saskatoon)

Laura, who has been with us since October 1985, is a native of Hong Kong, but her academic background includes a Bachelor of Arts Degree in Sociology and Psychology from the University of Toronto. After graduating in 1979 she returned to Hong Kong and worked for one year at the university as a tutor in medical psychology.

In 1980 Laura joined the Royal Hong Kong Police Force as an Inspector but resigned in 1982 to marry a Canadian and move to Saskatoon. Since then she worked as Education Co-ordinator with the John Howard Society and as a Corrections Officer with the Department of Justice before coming on to our staff.

Laura's interests include reading and cooking; she teaches Chinese Cooking via the Community College. She also sits on the John Howard Council in Saskatoon and acts as an interpreter for the Open Door Society.

Joyce Strate — Secretary (Saskatoon)

Joyce, who has been with the Saskatoon Office since it opened in October 1975, was born and raised on a farm north of Kinistino. Following secretarial training at Prince Albert Business College, Joyce worked with Social Services and the Department of Highways before moving to Saskatoon in 1971, where she was employed with Social Services before joining our staff.

Joyce is married, has two teenagers, enjoys sewing, knitting and being taken for walks by a large dog.

In addition to the above, it would be remiss of me not to recognize the contribution of the two "old" staff members who left us in 1987.

W. Kenneth Barker came to the office in 1973 as Assistant to the Ombudsman and served with dedication and distinction until his retirement in January 1987. This included a period as Acting Ombudsman from January 1976 to April 1977 (between Judge Ernie Boychuk and David Tickell) and the office was fortunate in having Kenn on board throughout his service.

Kenn actually came to us from the Workers' Compensation Board where he was a Claims Representative but his long-term career was with the Royal Canadian Mounted Police, and he retired as a Staff Sergeant in 1971 after 29 years of service.

We wish him well in his retirement.

Joan Uhren, our Executive Secretary, who opted for early retirement in 1987, joined the office in July 1973 and stayed the course through three changes of both location and Ombudsman; from the early struggle for recognition and acceptance to a time, hopefully, of stability and credibility.

Prior to 1973, Joan had worked as a legal secretary, as secretary to The Minister of Welfare (1966-71), and as a court stenographer with Social Services.

Widowed now for seven years, Joan has five grown-up children and fourteen grandchildren and can expect her "retirement" to be less than restful.

PART II
CASE SUMMARIES

PART II

CASE SUMMARIES

In last year's report a comment was made about the valuable contribution of Intake Officers and I certainly echo these sentiments.

Although their primary function is to receive complaints, the process of initial inquiry does sometimes lead to a resolution of the problem without the need for assignment to an investigator.

The following is a small sample of the kind of complaints they deal with on a regular basis.

DEPARTMENT OF HIGHWAYS

File No. — 87-14000-10-03

On July 13, 1987 a citizen telephoned to complain that a Department of Highways vehicle had sprayed tar on his vehicle while he was travelling on a public highway.

The matter was referred to a representative of The Department of Highways who agreed to contact the complainant for details regarding the incident and provide this office with a report.

On July 21, 1987 The Department of Highways representative reported that information supplied by the complainant regarding the date and location of the incident substantiated the department's equipment was in the vicinity of the complainant's vehicle at the time of the alleged incident. The department accepted responsibility for removing the tar from the complainant's vehicle.

File No. — 87-2000-30-162

On November 26, 1987 this office received a letter from an inmate of the Regina Correctional Centre. The letter noted the inmate's suicidal intentions. The Director of the Centre was given immediate notice of a possible suicide attempt by the inmate. The Director arranged for the centre's Suicide Prevention Officer to attend to the inmate and subsequently reported that an attempted suicide by the inmate had been averted.

WORKERS' COMPENSATION BOARD

File No. — 86-16030-10-166

An injured worker complained the processing of a claim made to the Saskatchewan Workers' Compensation Board might be delayed because the Board required information from a prior claim for injury, which was with the Alberta Workers' Compensation Board. As a result of an inquiry to the Saskatchewan Board, the Claims Officer responsible for the worker's Saskatchewan claim initiated a follow-up of the request to the Alberta Board. Also, a request for assistance to the Alberta Office of the Ombudsman resulted in a review by a representative of the Alberta Workers' Compensation Board. The combined efforts of the Workers' Compensation Boards in both Saskatchewan and Alberta resulted in the delivery of the information within a reasonable time frame.

SASKATCHEWAN HOUSING CORPORATION

File No. — 87-18000-00-03

Toward the end of December of 1986, our office was approached by Mr. C after his application for the Home Improvement Matching Grant was rejected. He was verbally advised by a staff member from the Corporation that he should have received approval prior to the commencement of the actual work. Mr. C had produced quotes from three different companies. The quotes were all dated back to September and the actual work was carried out in October.

My office contacted the Program Manager in Saskatoon to confirm the information received by Mr. C. The Manager advised the information given was in fact incorrect. He requested we refer our client to him directly and he would look into the matter.

About two weeks later, Mr. C returned to let us know his application had been processed and he would be getting his cheque in the very near future.

File No. — 87-18200-00-14

In November, this complainant had approached my office out of desperation and requested our intervention on her behalf. She was a single parent with four young children. She and her common-law husband had recently separated and she was being evicted by a housing authority because of late payment of the October rent. An

Order had been issued by the Office of the Rentalsman to that effect, but while she agreed the eviction Order was legal, she felt her circumstances warranted special consideration.

Our complainant was held at Pine Grove Correctional Centre from September until early November. While in jail, she had made arrangements for her common-law to pay the October rent. The common-law took the money but did not make the payment in full and he also did not make the payment on time. The complainant did not find out about the eviction notice until she returned home from Prince Albert, and although she offered to pay the balance immediately, the offer was rejected.

A call was made to the manager of the housing authority, who indicated he had not been aware of the complainant's situation. However, the record also revealed she and her former common-law had been in arrears in their rent on five different occasions since February of 1985. There was also an outstanding repair bill of \$21. The manager further advised that since the complainant was on assistance, the Department of Social Services would pay for her rent regardless of where she lived. He then assured us that the complainant would not be evicted until the end of the year and that he would do his best to help in relocating her.

The manager also suggested my client submit an appeal to the Housing Authority Appeal Committee and have them review her circumstance. She was informed of this suggestion.

About three weeks after our initial contact with the complainant, she advised us the housing authority had reviewed her case and had allowed her to continue renting with them.

SASKATCHEWAN SOCIAL SERVICES

File No. — 87-23000-40-48

A delivery truck operator, prohibited from driving because of a visual impairment, complained he had received confusing information from a Department of Social Services employee regarding financial assistance for eyeglasses. An inquiry to the Department of Social Services revealed a social worker provided advice to the complainant and referred the request to an assessor at the Medical Services Division of the Department of Health. An inquiry to the Department of Health revealed the source of the

confusing information. The Department of Health medical services assessor and the Department of Social Services social worker had identical first and last names. The complainant was not aware he was confusing the instructions of a representative of the Department of Social Services with the information needs of a representative of the Department of Health. With the assistance of the social worker the complainant was able to provide the medical services assessor with the required information. The complainant's request was approved and the eyeglasses were received.

The complainant subsequently received specialized driver training and a valid operator's license and located employment.

File No. — 87-23000-40-184

Out of frustration, Ms. N contacted our office and requested some kind of assistance or suggestions as to what she could do. She had not been able to get in touch with her worker and said her messages were never returned by anyone. She had paid out \$100 for babysitting out of her family budget and would like reimbursement for it.

My officer got in touch with one of the Social Service supervisors and Ms. N's concern was looked into almost immediately. She received a cheque for the said amount within two days after her contact with this office.

File No. — 86-23000-40-44

An advocate for a mentally retarded social assistance recipient requested assistance regarding telephone service for his client. The client's telephone service was disconnected for non-payment of account. The advocate noted, subsequent to the telephone disconnection, special needs counsellors and a financial trustee had been assigned to assist the client, and their assistance ensured the client's ability to pay. The advocate's request was referred to a representative of SaskTel. This representative agreed to discuss reinstatement of telephone service with the client's financial trustee. The trustee subsequently reported SaskTel reinstated telephone service under an "agreement to pay" arrangement.

SASKTEL**File No. — 87-25000-10-18**

In March of this year, Ms. S attended my office to complain she had been contacted by the Corporation regarding an unpaid bill of \$70. She was informed it was the result of an NSF cheque she had written. Ms. S informed my officer she had not made the payment by cheque. Instead it was made by cash and it was paid directly at a drug store where she pays most of her bills.

My officer contacted the staff at the drug store to confirm the above information but, unfortunately, the staff could not recall how the payment was made. At our request, Ms. S attended our office with her portion of the bill and my officer confirmed it was stamped "paid on January 30". Ms. S's bank statement was also examined and there was no indication the said cheque was ever written or returned as NSF.

Our initial contact with SaskTel also confirmed they had no record of any cheque. Information from our initial inquiry was communicated to the Corporation and they agreed to extend the benefit of the doubt to our client.

Ms. S received her \$70 credit.

File No. — 87-25000-10-04

One of my long term clients re-contacted my office about her problem with the Corporation. She advised that although she owed a bill of \$261, she was in no position to make the payment because of her limited budget income from the Department of Social Services. Her trustee had attempted to negotiate with the Corporation but to no avail. SaskTel demanded the account be settled that day or the phone service would be disconnected. Our client advised us she lived alone and has a health problem. It was imperative that she have access to a phone in case of an emergency.

After our initial contact with SaskTel's manager, the latter promptly agreed to some kind of negotiation. A payment schedule was set up between both parties through my office and disconnection was avoided.

The investigators' role involves them in much more detail on the cases, but even cases opened formally can sometimes be resolved without undue formality, as some of the following examples show.

Note: The selection of cases has no particular significance and they were chosen at random. We are not targeting agencies featured more than once, but we do naturally get more complaints from agencies which have a high public contact.

SASKATCHEWAN AGRICULTURE

File No. — 85-1000-30-12

Saskatchewan Agriculture, Lands Branch, leased certain land for grazing purposes to a Mr. X (the Lessee).

The said grazing lease contained certain restrictions which the lessee had to abide by otherwise Agriculture could terminate the lease. One of the provisions of the lease stated that the lessee could not, without the written authority of the lessor, graze other than the livestock owned by him. It was this latter lease term that was the cause of the complainant (Mr. B) contacting the Ombudsman.

Mr. B complained to the Ombudsman that Mr. X was allowing other persons to use the lease land for grazing purposes, contrary to the above noted provision. In 1980 and several times thereafter, Mr. B reported to the local land representative of Saskatchewan Agriculture that he had observed livestock on the land in question that carried a brand other than that of the lessee. The field inspectors did verify that indeed the livestock brand was not Mr. X's, however no one from the department ever confirmed what the status of the livestock was or who they actually belonged to until approximately five years later, by a telephone call from the Department of Justice to the person to whom the brand belonged. At this time the department was advised by Justice that "*prima facie*" the lease could be terminated if the department wished to do so. The department did not terminate the lease and instead allowed Mr. X to "correct" the problem.

In 1985 Mr. B received a letter from the then Minister advising him that there was difficulty in substantiating breaches of the lease. It was no wonder when the "investigation" consisted of simply requiring that the lessee provide some kind of written statement either in the form of an affidavit or answers to certain questions from

the department that he did or did not own the livestock complained about. Confirmation of ownership never was established even though there were suspicions at the land representative level that the lessee did not have his own cattle on the land in question.

Following the investigation, the Ombudsman recommended that the department confirm ownership of cattle currently grazing the land other than by affidavits from the buyer (lessee) and seller.

The department had taken the position that while the current situation may be suspicious there is nothing more that can be done to indicate that the particular lease provision in question is, or is not, being broken by the lessee. However, as the Ombudsman pointed out in his final correspondence to the department, he would expect that an actual inspection be conducted. Furthermore, the Ombudsman pointed out that there was at least a "*prima facie*" case for terminating the lease back in 1985 when the Department of Justice conducted its "investigation" over the phone.

The Ombudsman closed this case as substantiated, without a further recommendation, however he urged "the department to improve its investigation and inspection of issues such as this and be guided by its legal advice when it seeks same".

SASKATCHEWAN JUSTICE

File No. — 87-2000-20-01

In September of 1985 Mr. O was charged with speeding and not wearing his seat belt (by Saskatoon City Police).

Mr. O failed to pay the fines within the required time and warrants were issued for his arrest. Before the warrants were executed Mr. O paid the fines in full in August of 1986.

Approximately six months later Mr. O was arrested by Regina City Police for non-payment of the above noted fines and was required to attend court in Saskatoon.

Court Services had in fact failed to cancel the warrants when Mr. O paid the fines six months prior to his "arrest".

Following the Ombudsman's investigation of this matter he recommended to the Department of Justice that Mr. O be

reimbursed costs of travelling to Saskatoon, which included one night lodging.

The department agreed and Mr. O was reimbursed.

File No. — 86-2000-30-51

An inmate contacted us from an out-of-province Federal Penitentiary to complain about the loss of his handicraft materials from a Provincial Correctional Centre where he had been serving time. We gave notice to the department in the spring of 1986 and commenced our investigation. Although a year had expired from the time the items were determined as missing to the time our office gave notice, we noted that the inmate, about a month after transfer from the provincial system, had requested his mother obtain any of his belongings which had not been transferred to the Penitentiary. She was told that none of his belongings were at the Centre. Inquiries were also made of the Penitentiary staff who confirmed the inmate's personal effects were received, but no hobbycraft items.

There was no doubt this inmate was a serious craftsman who had received substantial amounts of material while at the Centre and had also sent out many completed items. However, included on his personal property inventory (completed by staff when allowable items are sent into the Centre) were tools which had to be stored in the unit office. Since no hobbycraft items at all were located, although the 'tools' were to be stored in the staff office unless being used by the inmate, our office recommended the department offer a nominal amount of compensation to the inmate — primarily to offset the loss of the tools.

A recommendation to this effect made in March of 1987 was accepted by the department. In addition, the Centre also implemented better procedures to tag and record items being shipped out of the Centre.

ADVANCED EDUCATION AND MANPOWER

File No. — 86-4000-10-01

A single parent on social assistance benefits was referred to my office by her social worker after having been contacted by a collection agency. Apparently the Canada Student Loan Program had asked the agency to collect on a delinquent Canada Student

Loan. This lady had been a student at the University of Regina for part of one semester, two years earlier, but she thought she was not required to make any repayment of her student loan, since she had been approved under a special program — Vocational Rehabilitation for Disabled Persons (VRDP).

Investigation of this matter revealed a change in the manner in which the Vocational Rehabilitation for Disabled Persons program was administered commencing in the fall of 1983. Prior to this time, students who were approved under the program were eligible for a living allowance based upon their attendance in the educational program. Provided they were in full attendance, they would receive their full allowance and there was no requirement to repay any of the funds the student received. However, as of the fall of 1983, students who were approved under the program were required to complete a standard, Canada Student Loan Application. Their approval under the program made them eligible for remission of their Canada Student Loan at the rate of 100% for the first year of studies and 50% for the second year of studies. This remission was conditional to the successful completion of that particular year of studies.

In the case in question, the single parent student had been advised by her counsellor at the University to drop one of her classes due to difficulties in commuting to the University and attending to her two year old daughter. As this student had only been registered in three university classes, the dropping of this one class, on the advice of her counsellor, resulted in her only taking two classes and losing status as a full time student. The student did not learn of this until the next portion of her student loan was payable, when she was informed that she was not eligible for any further funds because she was no longer a full time student. Upon learning this, the student decided she had no alternative but to drop out of University altogether, since she could not continue her studies without some type of funding.

During the investigation of the complaint, my investigator met with the social worker, who had referred this student to the Vocational Rehabilitation for Disabled Persons program. It became clear that neither the social worker nor the student involved had been aware of the requirement to successfully complete the educational program in order to be eligible for remission. In fact, they were not even aware of the need to apply for remission. Similarly, the various pamphlets available in the social services offices were found to

provide only general information about how to qualify for the program, without any reference to the need to successfully complete the studies or to make application for remission. Literature provided by the Department of Advanced Education and Manpower did provide reference to remission and the need to successfully complete one's studies, however neither this student nor her social worker had even seen this literature. In the circumstances, it seemed obvious that neither the student nor the social worker had been fully aware of the implications of funding provided through the Vocational Rehabilitation for Disabled Persons program.

After inquiries had been completed by my office, my investigator met with senior officials within the Department of Advanced Education and Manpower. This student's situation was then explained in detail, particularly with respect to the student's lack of awareness of the need to successfully complete the program; none of the various application forms she had completed had made any reference to this requirement. Officials within the department were satisfied that this student had not been aware of this requirement and that she was therefore deserving of special consideration.

A short time later, the department received approval from their Minister to make payment on behalf of this student, to the collection agency involved. The payment included both the principal and interest portion of the Canada Student Loan. In this manner, the student's debt was completely paid off and the collection agency was no longer a problem for her.

I should point out that no formal recommendation by my office was required in this case due to the co-operation extended by senior officials within the Department of Advanced Education and Manpower. Such co-operation is sincerely appreciated since it provides for a quicker and more efficient solution to problems which are identified.

EDUCATION

File No. — 85-7000-10-07

In 1982 a young student "entered" a Special Education Program at a rural Saskatchewan school. He was in Grade 2 at the time and remained in the Special Education Program until Grade 5.

The parents contacted our office complaining that their son may have been placed in the Special Education Program for reasons that were not consistent with either their son's performance in school or the purpose of the program. They had tried to resolve the matter at the local school and School Board level without success.

The Ombudsman does not have jurisdiction to investigate decisions of the Local School Boards and schools. However, he can, and did in this case, under the provisions of **The Education Act** ask that the Department of Education investigate the matter, in which case the Ombudsman then can review the department's investigation and conclusions.

In this particular case some prompting from the Department of Education Head Office encouraged local and lower level department officials to meet with the parents and review the placement of this young boy in the Special Education Program.

It was agreed that the boy would enter the mainstream program on a trial basis. In January of 1987 the parents were pleased with their son's performance and looked forward to him completing Grade 5 in his "new" student status.

The Ombudsman closed the case as substantiated and rectified. This case at least shows that the Department of Education can play an important role in ensuring that parents with concerns, as in this case, have an opportunity to be heard.

SASKATCHEWAN LABOUR, HUMAN RESOURCES AND EMPLOYMENT

File No. — 86-16000-40-18

In November of 1986 we received a complaint from a young woman who had been fired from her employment which she had held for the past four years. She believed that she was entitled to payment in lieu of notice when she had been fired, as well as an additional payment for overtime. She advised that she had approached Saskatchewan Labour, Human Resources and Employment, Labour Standards Branch, with respect to her complaint. However, she was displeased with the action taken by the department since the officer assigned to the case had not even reviewed the payroll records prior to rendering a decision in favour of the employer. In the circumstances, she felt that the investigation and decision were both unfair.

Although my office does not have the jurisdiction to investigate complaints against private employers, we do have the jurisdiction to investigate the actions or omissions of the Labour Standards Branch of the Department of Labour, Human Resources and Employment. The department has an obligation to ensure that employers in the province comply with the requirements of **The Labour Standards Act**. My office therefore commenced an investigation to determine whether the department had adequately investigated this employee's claim.

Upon receipt of our notice letter, advising our intention to investigate this complaint, the department advised that they had re-opened their investigation against the employer. Shortly thereafter, the complainant confirmed that she had a meeting set up with the Labour Standards Officer for early in December.

At the end of January 1987, an investigator from my office met with the Labour Standards Officer to determine the status of their investigation. The Labour Standards Officer had acquired a larger volume of payroll records from the employer and was in the process of auditing these records, to determine the entitlement of the employee involved. He suggested that it would take approximately three to four weeks before the matter could be concluded. He also observed that there were still some issues in dispute and it was possible that the department would not agree with the employee on all issues.

During the ensuing weeks and months, my investigator inquired on several occasions as to the status of this investigation. It was not until mid-June of 1987 that the matter was entirely resolved with the employee receiving a final payment of \$700, less deductions, from the employer.

The complainant in this case was not entirely satisfied with the settlement she had received. Firstly, the payment was received thirteen months after her employment had been terminated and twelve months after her initial complaint to the department. Secondly, she had expected that the department would conduct an audit of the employer's records and then advise her as to her entitlement under **The Labour Standards Act**. Instead, the Labour Standards Officer seemed to have "negotiated" a settlement of her claim, without even providing her with a precise statement as to her entitlement under **The Labour Standards Act**.

Due to the ongoing concerns expressed by this complainant, my office decided to review the department's records to determine the exact extent of the complainant's entitlement. Upon attempting this review, we encountered a surprising lack of any concrete documentation which would in fact confirm the precise entitlement of this employee. Instead there seemed to be confirmation that the final settlement received was "reasonable" and yet there were no precise figures available to confirm the exact entitlement. The documentation seemed to confirm that a "negotiation" had in fact occurred.

As the amount received by the employee was a reasonable amount and the employee had signed a release, accepting this amount, my office concluded that the problem had been resolved to the complainant's satisfaction. Still, prior to concluding the file, my office did make note of the "inadequate documentation" in this particular case. This documentation could have been critical in the event a settlement had not been reached and it would have been necessary for the department to take the matter before the Courts.

WORKERS' COMPENSATION BOARD

File No. — 87-16030-10-02

This complaint came from a man who had suffered serious head injuries in a 1957 compensable automobile accident. He suffered complications including headaches and eye problems over the next 30 year period.

In 1973 changes in the area of the eye were detected. In 1975 surgery was performed to remove a tumour in the exact area of the 1957 injury. Medical opinion at that time was that the tumour and the 1957 accident were not related and accordingly compensation was denied. The worker continued to have difficulties in this area of the eye and in 1986 was referred to an out-of-province specialist for surgery. The 1986 surgery was in reality an extension of the 1975 surgery in that it involved excision of the same tumour. The 1986 medical diagnosis changed the labelling of the type of tumour and the question of the Workers' Compensation Board responsibility was again opened.

Since the tumour was very rare, the question of its relationship to the original accident was referred by the Workers' Compensation Board medical officer to a specialist. His opinion to the board was

that he could find no medical evidence to support a relationship. The Board therefore declined responsibility for the out-of-pocket expenses and lost work time related to the surgery.

The worker then came to our office. Consultation with the original specialist alerted us to the fact that Saskatchewan does not have a neuropathologist and confirmed that a neuropathologist would be in the best position to assess any causal relationship. With the co-operation of the original specialist a second opinion was obtained from a neuropathologist suggesting that there was a definite possibility that the tumour was related to the original accident.

Armed with this medical opinion the question of responsibility for the claimant's present condition was again referred to the Members of the Workers' Compensation Board.

The Board chose to extend the benefit of the doubt to the claimant and accepted responsibility for the tumour.

The Board is to be commended for its co-operation with our office and its flexibility in approaching what was a very rare and complex medical condition.

File No. — 87-16030-10-21

As a result of recurrent back problems, a female employee had her employment terminated after seventeen years of service, as the employer no longer considered her capable of performing her duties. She was suffering from a back injury and was not able to achieve full recovery. Several attempts at alternative, lighter duty work, had ultimately failed.

This woman approached my office complaining that the Workers' Compensation Board had terminated her benefits unfairly since she continued to experience medical problems and was unable to return to her regular duties. Having spent most of her working career with this one employer, she was at a distinct disadvantage in attempting to locate alternate employment since any other lighter duties would pay her much less than the union rate of pay which she had established with her employer of seventeen years.

Upon reviewing the files held by the Workers' Compensation Board with respect to this claimant, it became clear that the issues in

dispute were "medical". In the opinion of the Workers' Compensation Board, she was fit to return to her regular work duties — at her former place of employment. Despite the fact that she had her employment terminated, the Workers' Compensation Board took the view that she was not entitled to benefits since she would be capable, from a physical standpoint, of performing those duties. The Board was basing their decision, at least in part, upon the results of the Medical Board which had been held in June of 1986.

The worker was firmly of the view that she was not fit to return to her regular employment and further observed that there was no opportunity for lighter duty work to be made available to her, at least not on a permanent basis. Since she continued to experience medical difficulty she believed she was entitled to further consideration by the Board, and said that her specialists had advised her against surgery — she would simply have to learn to live with her pain.

At this stage of the proceedings, my investigator suggested to the complainant that a Medical Review Panel might be the best way of resolving this medical dispute. The Medical Review Panel process is a mechanism whereby a panel of three doctors, two of whom are specialists selected by the injured worker, reach a decision concerning the extent of a particular injury. The decision of this Medical Review Panel is then final and binding both upon the Board and the injured worker.

After discussing this matter with my investigator, the woman decided to pursue the Medical Review Panel process. She subsequently obtained the necessary certificate from her physician and provided this certificate to the Board. In turn the Board agreed to hold a Medical Review Panel to determine the nature and extent of any permanent injuries related to her work accident.

Although several months passed before a final decision was reached, the Medical Review Panel did rule in favour of the injured worker. The Panel was of the view that she did have ongoing restrictions which would prevent her from resuming her normal employment. As such, she was entitled to further wage loss benefits, representing the difference between the earnings she would have received at her normal place of employment, and the earnings which she was estimated capable of earning at lighter duty work, and subsequently received retroactive payment in excess of

\$8,000 and was further entitled to monthly payments of \$736.13 per month. Her situation would of course be subject to further review with no assurance that her entitlement would be permanent.

This complainant was satisfied with the results achieved by the Medical Review Panel process and I was therefore able to conclude her complaint as one that had been successfully rectified.

File No. — 85-16030-10-104

This case concerns a man who slipped and struck his right knee on a tiled floor while at work in 1982. It was initially thought that the pain and swelling would subside after about two weeks, but when the condition persisted he was referred to first one then another orthopedic specialist. He subsequently had an arthroscopy (an examination of the interior of the joint) on November 9, 1983 but nothing remarkable was found and he was urged to undertake physiotherapy and get back to work.

The worker's symptoms persisted, however, and he was referred to the Wascana Rehabilitation Program where his continuing problem was recognized but was diagnosed as chondromalacia, a softening of cartilage in the knee joint. Referral back to the specialist who did the arthroscopy produced the opinion that nothing more could be done and he would just have to get on with his life, but continued difficulty led him to yet another specialist who, on arthroscopy, found a major defect in the articular surface of the kneecap. In a subsequent letter to our office this doctor advised that in July 1985 he performed a partial patellectomy and medical facetectomy for chondromalacia of the patella, and that the original injury at work led to the degeneration of articular cartilage which necessitated the surgery.

Prior to this, however, in order to resolve the differing medical opinions offered by the specialists, the Workers' Compensation Board had the worker examined by yet another specialist, who diagnosed chondromalacia but felt it was a chronic problem predating the 1982 accident at work. The Board confirmed its refusal to compensate (the worker had been on and off compensation a couple of times and benefits were finally terminated in May 1984) and declined to accept responsibility for the remedial surgery in July 1985.

On reviewing all the material available it was apparent that the Board was relying on the diagnosis of a specialist who, although well qualified and respected in the profession, had given his opinion without the benefit of having conducted an arthroscopic or other surgical examination of the knee. On balance it was felt that the opinion of the doctor who had had the benefit of surgical intervention was more reliable and the Chairman was advised that this office supported the worker's claim and recommended compensation be paid to December 31, 1985, which would allow adequate time to recuperate from the July surgery. I am pleased to report that the Board accepted our position and further, indicated their Vocational Rehabilitation Department would be in touch with the worker to offer assistance in his return to suitable employment.

SASKATCHEWAN HOUSING CORPORATION

File No. — 86-18100-00-01

There are occasions during the course of our investigations where negotiating with an agency before any formal recommendations are made can result in remedies that are more immediate and satisfactory to both parties involved.

In this case the complainant approached our office in early 1986 outlining concerns about the construction of her Saskatchewan Housing Corporation unit and disputing the amount of arrears that had accumulated. In addition, our complainant claimed she had spent approximately \$2,500 in repairs which should have been covered by warranty.

In regards to arrears, my investigator was able to obtain the payment ledger and review this with our client, who could not produce any evidence to show the ledger was incorrect. Indeed, she had left the residence for a short time after separating from her husband and payments were clearly missed. After her husband vacated the unit, she again took up occupancy.

Since she was a single parent, the Corporation was prepared to allow her to continue living in the home as the alternatives for housing were very limited. However, the arrears were substantial and there was still the question of costs the couple had incurred initially to fix some warranty items. Obtaining receipts for these items would have no doubt prolonged the case and the Corporation officials were prepared to negotiate on this point.

To their credit and the satisfaction of our complainant, the Corporation recognised that the couple had effected certain repairs and agreed to write down the arrears by \$1,900. The case was thus closed without requiring more extensive investigation or formal recommendation.

A bouquet to the staff at Saskatchewan Housing Corporation.

File No. — 86-18200-00-03

An elderly gentleman who was resident in accommodations provided by the Local Housing Authority in a small Saskatchewan city complained to my office about the loss of his upright deep freeze and its contents. The man explained that the Local Housing Authority had his suite painted by a private contractor and that he had therefore vacated the premises while the painting was being completed. In order to avoid the unpleasantness of the paint fumes the man had taken a short vacation and returned when the painting had been completed. However, upon his return he found that the upright deep freeze had ceased working and all of the food that was in the deep freeze had spoiled.

The man observed that the circuit breaker was in the off position. He therefore flipped the switch back to the on position whereupon the freezer once again cut in and commenced operating properly. Unfortunately, despite repeated efforts at cleaning the deep freeze the smell could not be removed. The man was obliged to purchase a new deep freeze at a cost in excess of \$500. However, prior to purchasing the new unit, he had requested a local refrigeration expert to test his old unit to determine if there was some problem. Despite extensive testing, the expert could find no difficulties whatsoever with this unit — except for the smell — and the complainant felt the painters had done something to cause the circuit breaker to go off and that either the painters or the Local Housing Authority should be responsible for the losses which he had incurred.

In investigating this complaint, the Local Housing Authority advised that the same painting contractor had been hired on numerous occasions without any difficulty. Since this tenant had chosen to go away on holidays, a pass key had been provided to the contractor so that access could be gained to the suite. The Housing Authority made reference to their tenancy agreement whereby the tenant was

required to have someone inspect the premises if they were planning to be away for any period of four consecutive days or longer. Since this tenant had not had anyone inspect his suite during his vacation, the Housing Authority felt his losses were his own responsibility and should be covered by any home insurance he might have. Unfortunately, the tenant did not have any insurance on the contents of his suite and therefore this suggestion was of no help to him.

My investigator interviewed the refrigeration expert who had examined the deep freeze in question. An interview was also held with the painter who had been responsible for painting this particular suite. It was considered that the deep freeze had been unplugged in order for the painters to paint behind the unit. Still, neither the painter nor the refrigeration expert could understand why the circuit breaker should have gone off.

My office reviewed this matter from a legal perspective and reached the conclusion that the Local Housing Authority was responsible, at least in part, for the actions of the painting contractor. The painters had been provided with a pass key and had access to the premises. They were therefore under some obligation to ensure that everything was in working order when they vacated the suite. At the same time, we acknowledged that the tenant did have some responsibility in this matter, since he had not requested anyone to inspect the suite during his absence, in accordance with his tenancy agreement.

Therefore, as a compromise solution to the problem, my office recommended that the Local Housing Authority extend payment to the tenant in the amount of \$300. This was in recognition of the tenant's total claim for damage of \$400 (\$300 freezer and \$100 contents).

Upon receipt of our recommendation, the Local Housing Authority disagreed with our findings that they were in any way responsible to the tenant for the loss of his deep freeze. At the same time, they also enclosed a cheque for the tenant in the amount of \$300 in order to resolve the matter. The tenant was most satisfied with this solution and the file was therefore closed as a complaint that had been rectified by the Local Housing Authority.

**SASKATCHEWAN SOCIAL SERVICES/PUBLIC SERVICE
COMMISSION**

File No. — 81-23000-10-48

This complaint arose from the denial of sick leave benefits to a government employee who was sick during the 1979 Saskatchewan Government Employees Union strike.

On November 15, 1979, the day before the strike started, our complainant saw his doctor and was certified sick. The next day he reported this to his employer, the Department of Social Services, and continued to be absent under his doctor's certification until the end of the strike, but he was refused sick leave with pay. It was felt he had not gone sick until the strike had commenced and this disqualified him for sick leave benefits.

Although this case was being simultaneously dealt with through the union grievance process and was slated for arbitration, that process was/is so slow as to be almost a denial of justice and we proceeded with an investigation and finally recommended in the complainant's favour. This was not accepted and we were obliged to watch the matter proceed to arbitration. The case was heard in March 1984, but without a decision being rendered.

Eventually the Arbitration Board reconvened in August 1986 and gave its final decision on October 8, 1987, in favour of the complainant, ruling that he be given the benefit of the doubt because, "In light of his illness (he) could not have attended to work duties had he so chosen between November 16 and December 17 and, therefore, was simply not in a position to "elect" to work or not work."

On December 4, 1987, the complainant received a cheque for the benefits owing for that month of sick leave in 1979.

File No. — 86-23000-40-140

This couple approached our office in the spring of 1986 after repeated attempts to get authorization from the Department of Social Services to make certain improvements to their home.

Initially, they applied for a Residential Rehabilitation Assistance Program (RRAP) grant from the Saskatchewan Housing Corporation, but due to the high costs of installing sewer and water

and the \$5,000 maximum payable by RRAP, they required additional funds from Social Services. In 1982, they submitted the necessary estimates and applications to both agencies, but Social Services refused to authorize the repairs, claiming the family should move into a city where employment would be more available. Our complainants persisted — submitting medical information from their doctor to support the fact their residence in a rural community was beneficial to their daughter's health. The department remained unyielding so they 'gave up'.

In July of 1985, the couple were contacted by Saskatchewan Housing Corporation asking whether they were still interested in doing the repairs — noting they had information from Social Services that the home was not worth repairing. Our complainants were confused by this statement and got in touch with the original inspector from Saskatchewan Housing Corporation. He confirmed the home was suitable for improvement and encouraged the couple to reapply.

This they did, essentially starting back at square one and needing a new set of estimates because the original documents were outdated in terms of cost. In addition, over a year previous, the couple's septic tank had cracked, causing sewer gas fumes to leak into their basement and sewage to drain into a nearby lagoon. Thus, the family faced public health concerns and obnoxious odors in their home.

The completed application and forms were sent to Saskatchewan Housing Corporation who needed income verification from Social Services and approval of funding to cover excess costs. The matter appeared to be held up at this point . . . at which time our office was contacted. Upon giving notice to the department we learned Social Services had submitted income verification to Saskatchewan Housing Corporation and were awaiting authorization from the Federal Government for approval of funding. We noted it took over two months — from January 1986 to March 1986 for the department to submit the income verification form. Although the time delay was not great, the RRAP budget was limited and concern was that the budget would be exhausted for the 1985/86 fiscal year. Fortunately, our complainants were able to obtain approval from the 1986 RRAP budget and the Federal Government, so finally commenced repairs.

In October of 1986, we received a letter of appreciation: "Tonight we can turn the tap on. You wouldn't believe how that feels after all this

time . . . I don't know what else to say to express our gratitude. It's nice to have no more sewer smell and no more hauling water by pails. It's a luxury to what we had."

In concluding the file in 1987, the former Ombudsman made clear in his findings that he felt the case was handled inappropriately in 1982. Denying this couple what he described as "essential service and repairs" and insisting they merely move into an urban centre in spite of concerns about their daughter's health, was unreasonable. In addition, had Social Services approved payment for the home back in 1982, the cost to the Saskatchewan Assistance Plan program would have been some \$2,500 less than in 1986.

File No. — 87-23000-40-181

This case identified a discrepancy between two divisions of the Department of Social Services respecting payment to persons providing service to their clients.

Mrs. O reported that she provided care for several handicapped clients. She received prompt payment from the Rehabilitation Branch of the department yet experienced lengthy delays if the client was under the responsibility of the Social Assistance Plan branch.

As a result of this complaint, the department was made aware of the discrepancy in the processing of payments for services rendered to clients and they were able to develop a system to improve the timeliness of such payments.

File No. — 85-23000-40-266

In late 1985 we received a complaint about the application of the Department of Social Services' policy on 'the head of the family unit' as set forth in the **Saskatchewan Assistance Plan Policy Manual**.

A woman who had been a single parent for ten years required financial assistance from the department for herself and for her child. She had recently started living in a common-law situation and both she and her common-law husband completed financial declarations. She was then advised that it was necessary for the assistance cheques to be issued to her common-law husband as

per Section 4(1) of the **Saskatchewan Assistance Plan Regulations**. She claimed the department's policy on cheque issuance was discriminatory.

The department's policy that "the husband is usually considered to be the head of the family unit unless the couple decides otherwise" was confirmed by the then Deputy Minister.

On April 17, 1985 **The Charter of Rights and Freedoms** came into effect. Section 15 of **The Charter** requires that people similarly situated should be treated similarly without discrimination on the basis of sex. The department's policy as it existed appeared to be in conflict with this section in that it treated applicants differently according to their sex.

The department has undertaken to ensure that cheques are henceforth issued according to client choice, which effectively eliminates the element of discrimination that previously existed.

SASKATCHEWAN GOVERNMENT INSURANCE

File No. — 87-26000-30-87

Icy streets in January 1984 were a contributing factor to Mr. C's automobile drifting into an intersection and striking a passing vehicle.

Under the provisions of **The Automobile Accident Insurance Act**, Saskatchewan Government Insurance imposed a surcharge levy against the operator's certificate of Mr. C, claiming that he was at fault in the above noted motor vehicle accident to the extent of at least 50%. Furthermore, because Mr. C was alleged to be at fault he was also responsible for the payment of his \$500 deductible.

Mr. C did not believe he was 50% or more responsible for the accident and approached Saskatchewan Government Insurance in order to dispute fault. Mr. C claimed that he was told by his adjustor that in order to dispute fault he would have to attend Small Claims Court. Mr. C took this to mean that he would be disputing fault, period, which would mean that if he were successful he would not have to pay the surcharge and hence he would not be responsible for the \$500 deductible. It is not clear that Mr. C was ever informed there were two separate issues of liability concerning the surcharge and the deductible.

Mr. C went to small Claims Court and in the Judge's own words he found Mr. C "was not at fault in respect of the said accident to the extent of at least 50%" and was not liable to pay the said surcharge.

Mr. C then went back to Saskatchewan Government Insurance to reclaim the \$500 deductible as he still believed it would be refunded if he was not at fault. Saskatchewan Government Insurance took the position that Mr. C was liable on the issue of the deductible and would not refund the deductible.

Following our investigation of this complaint the Ombudsman argued that this case showed a lack of clear communication between the insured and insurer which resulted in the insured not being able to now dispute liability as the limitation period had run out. In view of Mr. C's lack of any legal recourse to dispute liability, the Ombudsman recommended that fairness prevail and that Saskatchewan Government Insurance refund the \$500 deductible to Mr. C.

The Ombudsman also recommended that where Saskatchewan Government Insurance assesses fault which may have implications for surcharge levies or the deductible, that the insured be **fully informed** of the remedies available to dispute liability.

Saskatchewan Government Insurance's response indicated that it was "undertaking a review of the procedures in the hopes of making it easy for the motorist to understand his right(s) to dispute liability and/or the resultant accident surcharge".

However, Saskatchewan Government Insurance would not refund the deductible to Mr. C, but said they would waive the limitation period in order for Mr. C to dispute liability on the issue of the deductible.

Mr. C appeared in Court, however the presiding Magistrate dismissed the action on the basis that the limitation period had expired.

The Ombudsman recontacted Saskatchewan Government Insurance regarding the latest turn of events, at which time the insurer decided to reimburse the deductible.

File No. — 85-26000-30-172

Our complainant initially contacted our office in the fall of 1985 seeking assistance to obtain death benefits for her four nieces and nephews. The children's mother was killed in a car accident in 1983. Their mother had been divorced and was living in a common-law relationship at the time of her death. At that time, the children were being cared for by their aunt (our complainant) in a private arrangement basis, with the mother supplementing the aunt for the children's care on an as-needed basis.

Following the accident, Saskatchewan Government Insurance officials reviewed the situation and concluded the four children were not dependents of their mother. The basis for this decision was that the aunt reported she provided shelter and food for the children, albeit supplemented by the mother and her common-law husband. Therefore, Saskatchewan Government Insurance concluded that the children did not qualify for death benefits because they were not dependent on their mother for the necessities of life.

In the course of our investigation we had occasion to peruse the case of **Moosewaypayo vs Saskatchewan Government Insurance Office, 1981, 2WWR 577**, a decision of our then District Court. While the case dealt primarily with whether the lawful wife was a primary dependent, the Court found the children of the deceased were secondary dependents, notwithstanding the fact that they did not reside with the deceased and the only hint of dependency was that the deceased would occasionally visit the children and provide spending money or clothing. Our office's position, reported to Saskatchewan Government Insurance in June of 1986, was that this case illustrated a situation similar to our complainant's in that the deceased mother's contribution to the children's maintenance was at least as great as that contributed by the deceased in the Moosewaypayo case. Therefore we requested Saskatchewan Government Insurance review the matter with the suggestion these children be considered secondary beneficiaries.

In response, Saskatchewan Government Insurance was prepared to give our complainant "the benefit of the doubt" in terms of determining the dependency status, if they could be provided a more detailed account of the food and clothing received by the children while in the care of their aunt.

Unfortunately, there was some delay in obtaining all these details as, understandably, the aunt had not kept receipts or details of expenditures. However, she was able to provide a breakdown on a monthly basis of what the children received from their mother and Saskatchewan Government Insurance was satisfied with this statement. Saskatchewan Government Insurance agreed in July of 1987 that the children be considered dependents.

I wish to applaud Saskatchewan Government Insurance for their willingness to extend secondary death benefits to these children and not to challenge the question of dependency through the courts, a process these individuals could not afford.

SASKATCHEWAN POWER CORPORATION

File No. — 87-27000-10-45

Early in 1987, the Saskatchewan Power Corporation had advised one of its customers that she had been billed improperly for the past six years. The Corporation had mistakenly charged this customer at a residential rate whereas in fact she should have been charged a commercial rate. Having discovered this error in 1987, the Corporation was now requesting the payment of \$1,747.69 to correct their earlier error.

This customer approached my office complaining that a retroactive re-assessment for over six years seemed unfair. The error was somewhat understandable since the premises were located in a residential district, and consisted of an older model house which had been renovated to suit the purposes of her business.

Upon receipt of this complaint, my office contacted the Saskatchewan Power Corporation to provide them with official notice of our intention to investigate the matter. A short time later, the customer contacted my office to advise that officials of Saskatchewan Power Corporation had recently met with her to discuss this issue. She said that after hearing her position, the Corporation agreed she was being dealt with somewhat harshly. Accordingly, the Corporation agreed to "write off" the retroactive re-adjustment and simply to resume billing her at the proper, commercial rate. This case was resolved rather quickly and without the need for any formal recommendation on my part, due to the responsiveness and co-operation of officials at Saskatchewan Power Corporation.

File No. — 87-27000-10-77

In the course of some of our investigations, we must take the opportunity to applaud agencies for their responsiveness in resolving a complaint. The following is an illustration of such a case.

Our complainant contacted our office in the fall of this year concerned about Saskatchewan Power's decision to terminate his current service. The Corporation was holding our client responsible for an old account at a residence he had vacated in 1979. However, the billing was for a period from 1982 until 1985, when finally the account was put into collections.

Once our office had provided notification of the complaint, Saskatchewan Power Corporation officials reviewed the matter, noting that although service was provided, there was no consumption. This fact verified our client's statement that he had not lived at the residence during the period for which he was being billed. Saskatchewan Power Corporation offered to cancel the billing and resolved the matter without requiring a more extensive review by our office.

PART III
STATISTICS

PART III

STATISTICS

MUNICIPAL DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1987

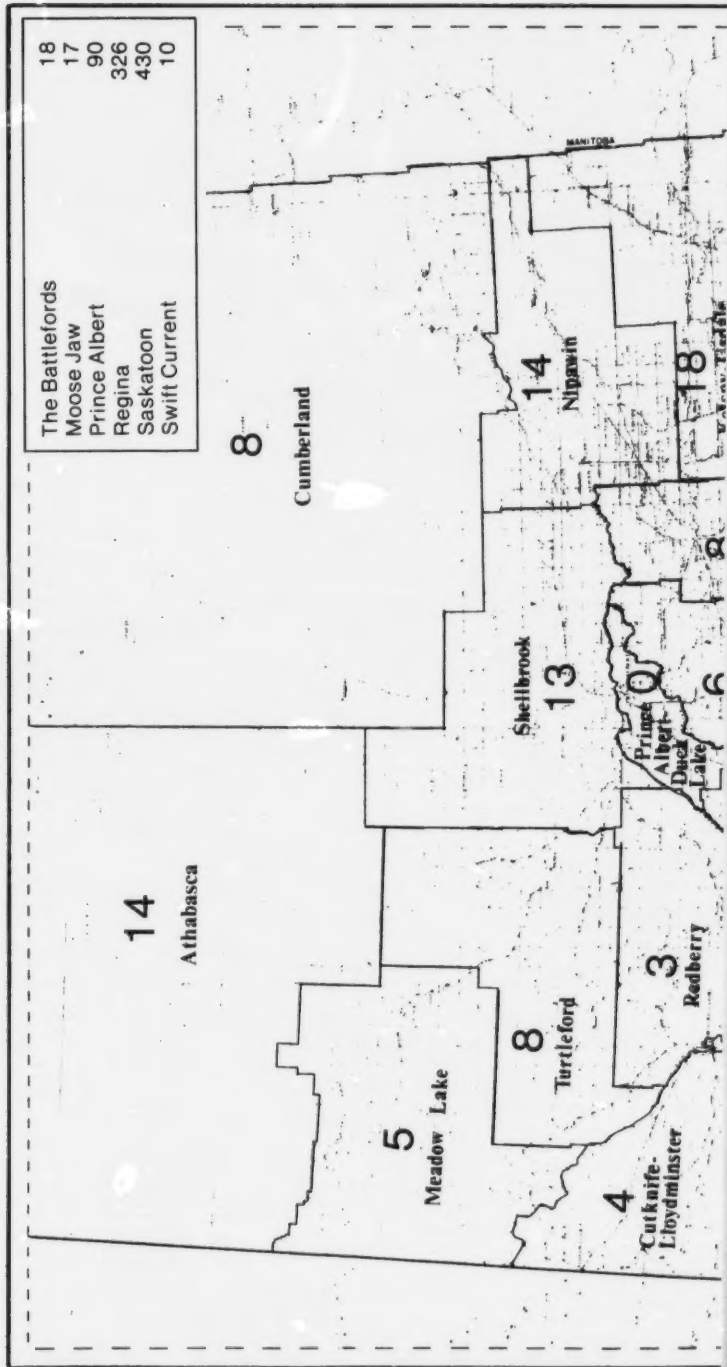
Allan	1	Dalmeny	3
Alvena	1	Delisle	3
Archerwill	2	Dillon	1
Asquith	1	Domremy	1
Assiniboia	2	Dummer	1
Balgonie	1	Dundurn	1
Barthel	1	Eastend	1
Battleford	3	Eatonia	3
Beatty	1	Ebenezer	1
Beauval	2	Edam	1
Bienfait	1	Elbow	1
Big River	2	Elrose	1
Biggar	2	Engelfeld	1
Bjorkdale	2	Esterhazy	2
Borden	1	Estevan	12
Bradwell	1	Fiske	1
Broadview	1	Foam Lake	2
Bruno	1	Fort Qu'Appelle	3
Buchanan	3	Foxford	1
Buffalo Narrows	3	Frobisher	1
Bulyea	3	Garrick	1
Canora	5	Gerald	1
Canwood	4	Glaslyn	1
Carlyle	1	Glen Ewen	1
Carrot River	2	Glidden	1
Central Butte	1	Grandora	1
Ceylon	1	Gravelbourg	2
Choiceland	2	Green Lake	2
Christopher Lake	2	Griffin	1
Clavet	1	Gronlid	2
Claydon	1	Guernsey	3
Climax	1	Hafford	1
Codette	1	Hague	2
Colonsay	2	Hanley	2
Conquest	1	Hendon	1
Consul	2	Holdfast	1
Coronach	2	Hoosier	2
Courval	1	Hudson Bay	6
Creighton	2	Humboldt	3
Cudworth	1		

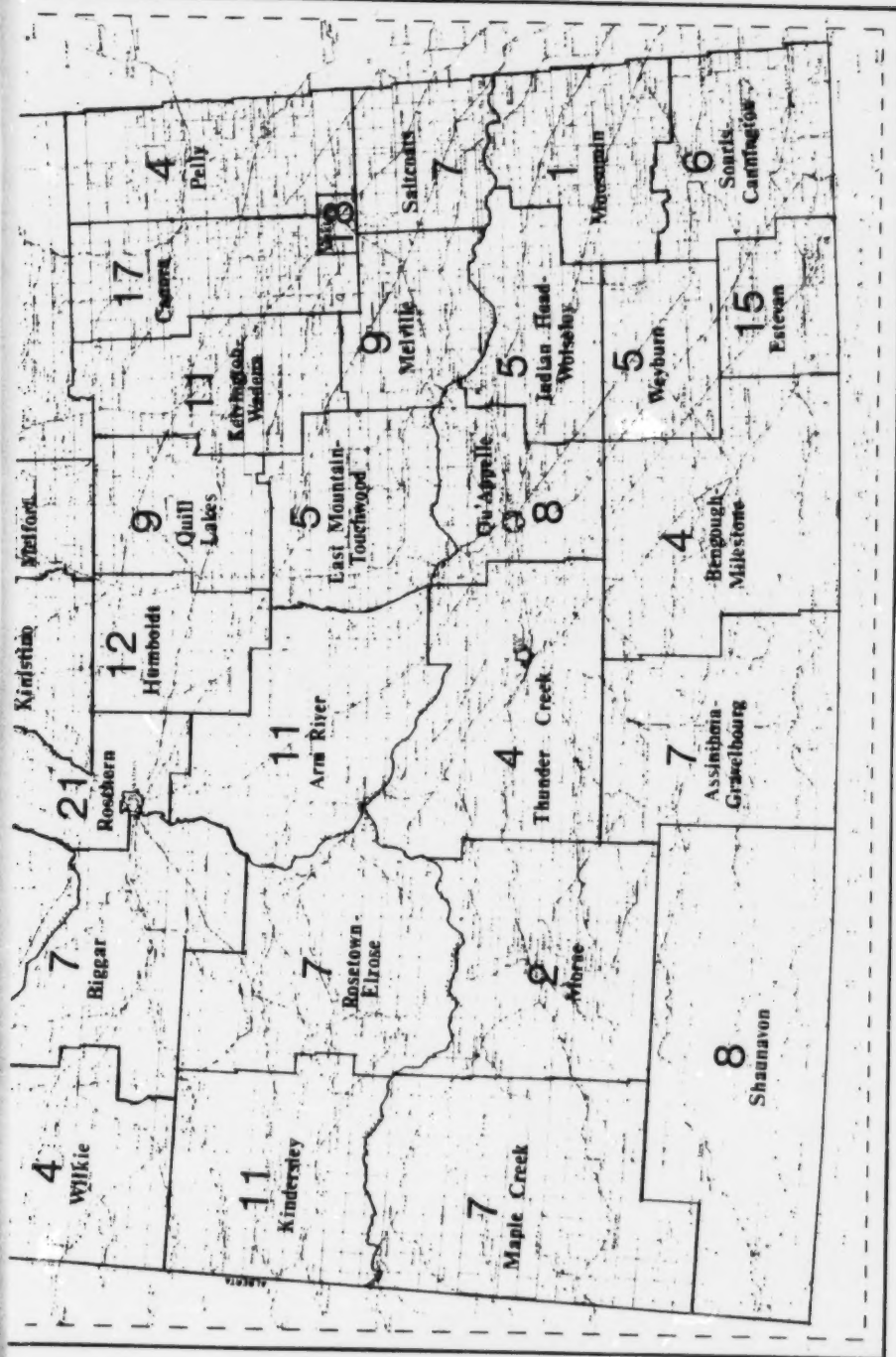
Ile-a-la-Crosse	1	Pennant Station	1
Indian Head	3	Pense	2
Jedburgh	1	Pilot Butte	2
Kamsack	3	Porcupine Plain	2
Kayville	1	Preeceville	4
Kelvington	1	Prelate	1
Kendal	1	Prince Albert	90
Kerrobert	1	Prud'homme	1
Killaly	2	Qu'Appelle	2
Kindersley	4	Raymore	1
Kinistino	1	Redvers	1
La Loche	2	Regina	326
La Ronge	4	Rhein	1
Lampman	1	Richmond	1
Langham	2	Rose Valley	1
Lanigan	2	Rosetown	1
Leader	1	Rosthern	1
Leask	1	St. Walburg	1
Lemberg	1	Sandy Bay	1
Leoville	2	Saskatoon	430
Leroy	2	Semans	1
Lloydminster	3	Shaunavon	2
Lucky Lake	2	Shellbrook	2
Maidstone	1	Shipman	2
Manor	1	Spiritwood	1
Maple Creek	3	Springside	1
Martensville	7	Spy Hill	2
McKague	1	Stoughton	1
Meacham	1	Sturgis	2
Meadow Lake	3	Swift Current	10
Melfort	5	Tantallon	1
Melville	4	Timber Bay	1
Milden	1	Tisdale	5
Mildred	1	Tompkins	1
Milestone	1	Tuffnell	3
Moose Jaw	17	Turnor Lake	3
Mortlach	1	Tuxford	1
Mossbank	1	Unity	1
Netherhill	1	Val Marie	1
Neudorf	2	Vanguard	1
Nipawin	6	Viscount	1
North Battleford	15	Wadena	3
North Portal	1	Wakaw	1
Osler	3	Waldheim	1
Outlook	4	Wapella	1
Oxbow	1		

Warman	1	Out of Province	
Watrous	1	Alberta	12
Weyburn	3	British Columbia	5
White Fox	4	Manitoba	4
Wilkie	2	Ontario	3
Wynyard	4		
Yarbo	1	Out of Country	
Yorkton	16	United States	1
		Total	1,242

GEOGRAPHIC DISTRIBUTION OF COMPLAINTS AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1987

PROVINCIAL CONSTITUENCIES The Representation Act 1981 (64 Constituencies)





COMPLAINTS CLOSED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1987

Department — Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substant'	No Juris.	Discont.	Not Rectified	Totals
Agriculture								
— General	1000-10	—	2	—	—	4	—	6
— Family Farm Improvement Board	1000-20	—	—	—	—	2	—	2
— Lands Branch	1000-30	1	—	1	—	1	2	5
Milk Control Board	1040-00	—	—	1	—	—	—	1
Saskatchewan Crop Insurance Corporation	1050-00	—	—	9	1	4	—	14
Agricultural Credit Corporation of Saskatchewan (FarmStart)	1060-00	1	1	—	—	2	—	4
Saskatchewan Beef Stabilization Board ..	1090-00	—	—	1	—	—	—	1
Justice								
— General	2000-10	—	—	2	—	2	—	4
— Court Services Branch	2000-20	1	1	—	1	1	—	4
— Corrections Branch	2000-30	28	15	58	1	100	2	204
— Maintenance Enforcement Office	2000-40	—	—	1	—	—	—	1
Public Trustee	2030-00	1	—	1	—	4	—	6
Criminal Injuries Compensation Board ..	2040-00	—	—	2	—	2	4	8
Saskatchewan Legal Aid Commission	2060-00	—	—	1	1	4	—	6
Saskatchewan Police Commission	2070-00	—	—	—	—	1	—	1
Saskatchewan Human Rights Commission	2100-00	—	—	1	—	2	—	3
Rentalsman	2200-00	—	—	—	—	9	—	9
Provincial Mediation Board	2300-00	—	—	—	—	1	—	1
Rent Appeal Commission	2400-00	—	—	—	—	2	—	2
Consumer and Commercial Affairs								
— General	3000-10	—	1	—	1	4	—	6
— Corporations Branch	3000-20	—	—	1	—	—	—	1
— Licensing and Investigations	3000-40	—	—	2	—	—	—	2

Department - Agency Board and Commission	Department Code No.	Resolved	Rectified	Not Substan't	No Juris.	Discont.	Not Rectified	Totals
Health								
- General	13000-10	2	-	5	-	13	-	20
- Saskatchewan Hearing Aid Plan	13000-40	-	-	1	-	-	-	1
- Psychiatric Services Branch	13000-20	-	-	-	-	1	-	1
- Saskatchewan Dental Plan	13000-50	-	1	-	-	-	-	1
- Saskatchewan Hospital Services Plan	13000-60	-	1	-	-	1	-	2
- Saskatchewan Prescription Drug Plan	13000-70	2	-	-	-	-	1	3
- Continuing Care Division	13000-80	-	1	1	-	-	-	2
Alcoholism Commission	13010-00	-	-	-	-	1	-	1
Saskatchewan Cancer Foundation	13030-00	-	-	-	-	1	1	2
South Saskatchewan Hospital Centre	13040-00	-	-	-	-	1	-	1
Highways and Transportation								
- General	14000-10	-	1	2	-	1	1	5
Highway Traffic Board	14010-10	-	-	2	-	-	-	2
Saskatchewan Transportation Company	14030-00	-	-	1	-	-	-	1
Saskatchewan Economic Development Corporation	15020-00	-	-	-	-	1	-	1
Labour								
- General	16000-10	1	1	2	-	2	-	6
- Labour Services Division	16000-40	-	2	5	-	22	2	31
- Safety Services Branch	16000-60	-	-	-	-	-	1	1
Labour Relations Board	16010-00	-	-	-	-	1	-	1
Workers' Compensation Board	16030-10	4	5	22	-	103	2	136
Liquid Board	16040-00	1	-	1	-	1	-	3
Liquor Licensing Commission	16050-00	-	-	1	-	1	-	2
Saskatchewan Energy and Mines								
- General	17000-10	-	-	-	-	1	-	1
Potash Corporation of Saskatchewan	17030-00	-	-	-	-	2	-	2
Saskatchewan Minerals	17040-00	-	-	-	-	1	-	1

**SUMMARY OF COMPLAINTS CLOSED AGAINST
SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1987**

	Resolved	Rectified	Not Rectified	Not Substantiated	No Jurisdiction	Discontinued	Total
1975	—	—	—	—	—	2	2
1979	—	1	—	—	—	5	6
1980	—	—	—	—	—	3	3
1981	—	—	1	—	—	3	4
1982	—	—	—	1	—	4	5
1983	—	1	1	8	1	3	14
1984	—	2	4	12	3	12	33
1985	4	12	13	38	—	9	76
1986	6	33	9	89	—	12	149
1987	161	23	—	103	8	745	1,040
	171	72	28	251	12	798	1,332

**SUMMARY OF COMPLAINTS CLOSED AGAINST
SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1986**

	Resolved	Rectified	Not Rectified	Not Substantiated	No Jurisdiction	Discontinued	Total
1977	—	—	—	—	—	1	1
1978	—	—	—	—	1	—	1
1980	—	—	—	2	—	7	9
1981	—	—	2	3	—	3	8
1982	—	1	—	3	—	1	5
1983	—	4	5	5	—	2	16
1984	3	11	5	42	—	6	67
1985	5	33	10	137	5	25	215
1986	151	32	1	113	22	747	1,066
	159	81	23	305	28	792	1,388

TOTAL COMPLAINTS RECEIVED — 1987

	Against Saskatchewan Departments and Agencies	Not Against Saskatchewan Departments and Agencies	Total
January	96	220	316
February	112	195	307
March	146	207	353
April	84	152	236
May	105	139	244
June	86	143	229
July	61	125	186
August	124	110	234
September	97	163	260
October	105	130	235
November	97	139	236
December	129	127	256
	1,242	1,850	3,092

COMPLAINTS OTHER THAN AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES January 1 to December 31, 1987

Category	Number	%
Consumer	580	31
Federal	416	22
Local Government	159	9
Professional	40	2
Private	313	17
Courts/Legal	128	7
Family	42	2
Medical	33	2
Other	139	8
	1,850	100

COMPLAINTS RECEIVED AGAINST SASKATCHEWAN DEPARTMENTS AND AGENCIES — 1987

Department — Agency Board and Commission	Department Code No.	Totals
Agriculture		
— General	1000-10	4
— Lands Branch	1000-30	4
Saskatchewan Crop Insurance Corporation	1050-00	10
Agricultural Credit Corporation of Saskatchewan (Farmstart)	1060-00	5
Justice		
— General	2000-10	5
— Court Services Branch	2000-20	3
— Corrections Branch	2000-30	186
— Maintenance Enforcement Office	2000-40	13
Public Trustee	2030-00	7
Criminal Injuries Compensation Board	2040-00	1
Saskatchewan Legal Aid Commission	2060-00	9
Saskatchewan Police Commission	2070-00	1
Saskatchewan Human Rights Commission	2100-00	3
Office of the Rentalsman	2200-00	5
Provincial Mediation Board	2300-00	2
Rent Appeal Commission	2400-00	2
Consumer and Commercial Affairs		
— General	3000-10	7
— Corporations Branch	3000-20	1
— Licensing and Investigations	3000-40	2
— Office of the Rentalsman	3000-50	5
— Provincial Mediation Board	3000-80	1
Inspection and Registry Services Division	3020-00	1
Gaming Commission	3030-00	2
Advanced Education and Manpower		
— General	4000-10	1
— Apprenticeship and Standards	4000-30	2
Education		
— General	7000-10	16
— Wascana Institute	7000-20	1
— Apprenticeship and Standards	7000-30	2
Teachers' Superannuation Commission	7030-00	2
Environment and Public Safety		
— General	8000-10	2
Saskatchewan Water Corporation	8200-10	10
Water Appeal Board	8300-10	2
Finance		
— General	11000-10	4
— Revenue Division	11000-30	1
— Public Employees Benefits Agency	11000-40	8
Municipal Employees Superannuation Commission ..	11000-50	1
Saskatchewan Property Management Corporation — General	12000-10	2

Department - Agency Board and Commission	Department Code No.	Totals
Health		
- General	13000-10	16
- Psychiatric Services Branch	13000-20	1
- Saskatchewan Hospital Services Plan	13000-60	1
- Saskatchewan Prescription Drug Plan	13000-70	3
Alcoholism Commission	13010-00	1
Saskatchewan Medical Care Insurance Commission	13020-00	2
South Saskatchewan Hospital Centre	13040-00	1
Highways and Transportation		
- General	14000-10	4
Highway Traffic Board	14010-00	7
Saskatchewan Transportation Company	14030-00	1
Saskatchewan Economic Development Corporation	15020-00	2
Human Resources, Labour and Employment		
- General	16000-10	3
- Labour Services Division	16000-40	22
Labour Relations Board	16010-00	1
Workers' Compensation Board	16030-10	135
Liquor Board Commission	16040-00	2
Liquor Licensing Commission	16050-00	1
Saskatchewan Energy and Mines		
- General	17000-10	1
Potash Corporation of Saskatchewan	17030-00	2
Saskatchewan Minerals	17040-00	1
Saskatchewan Mining Development Corporation	17050-00	1
Saskatchewan Assessment Appeal Board	18060-00	5
Saskatchewan Housing Corporation	18100-00	27
Municipal Housing Authorities	18200-00	14
Urban Affairs		
- General	18300-10	1
Parks, Recreation and Culture		
- General	22000-10	16
Saskatchewan Forest Products Corporation	22010-00	2
Tourism and Small Business	22030-00	1
Social Services		
- General	23000-10	5
- Community and Personal Services	23000-20	8
- Regional Services Division	23000-40	302
Social Services Appeal Board (Provincial)	23020-00	13
Saskatchewan Telecommunications	25000-10	49
Saskatchewan Government Insurance		
- General	26000-10	13
- Motor Licensing Division	26000-20	16
- Claims (General)	26000-30	140
Saskatchewan Power Corporation	27000-10	88
Public Utilities Review Commission	28000-10	1
		1,242

* Please note that some agencies may appear more than once due to the Government Re-organization which occurred May 1, 1987.



CHAPTER O-4.

An Act to provide for the appointment of a Person to Investigate Administrative decisions or acts of Departments of the Government and certain other Organizations and to define the Person's duties, functions and powers.

Short title

1. This Act may be cited as *The Ombudsman Act*.

Interpretation

2. In this Act:

agency of the government

(a) "agency of the government" means any board, commission, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which:

(i) are appointed by an Act or by an order of the Lieutenant Governor in Council; or

(ii) if not so appointed, in the discharge of their duties are public officers or servants of the Crown, or for the proper discharge of their duties are, directly or indirectly, responsible to the Crown;

department

(b) "department" means a department or branch of the executive government of the province;

minister

(c) "minister" means a member of the Executive Council. 1972, c. 87, s. 2.

Appointment

3.—(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigation to be called an Ombudsman.

(2) The person appointed as Ombudsman shall be a Canadian citizen and, subject to section 5, he shall be appointed by the Lieutenant Governor in Council on the recommendation of the Legislative Assembly.

(3) Unless he sooner resigns, dies or is removed from office, the Ombudsman shall hold office for a term of five years from the date of his appointment and may be reappointed for one additional term of five years.

OMBUDSMAN

(4) The Ombudsman may at any time resign his office by writing addressed to the Speaker of the Assembly or to the President of the Executive Council if there is no Speaker or if the Speaker is absent from the province. 1972, c. 87, s. 3.

Removal of
suspension

4. The Lieutenant Governor in Council on a resolution of the Assembly shall remove the Ombudsman from his office or suspend him according to the resolution. 1972, c. 87, s. 4.

Suspension
when Legis-
lature not in
session

5.—(1) When the Legislature is not in session the Lieutenant Governor in Council may suspend the Ombudsman for disability, neglect of duty, misconduct or bankruptcy proved to the satisfaction of the Lieutenant Governor in Council, but the suspension shall not continue beyond the end of the next ensuing session of the Legislature.

(2) Where the office of Ombudsman is vacant or the Ombudsman is suspended under subsection (1), the Lieutenant Governor in Council shall appoint an acting Ombudsman to hold office until a person is appointed as Ombudsman under section 3 or the suspension has been dealt with by the Assembly. 1972, c. 87, s. 5.

Salary

6.—(1) The Ombudsman shall be paid:

(a) a salary equal to the salary fixed from time to time by the Lieutenant Governor in Council pursuant to subsection 5(1) of *The Provincial Court Act* to be paid to a judge of the Provincial Court of Saskatchewan; and

(b) an allowance for travelling and other expenses incurred by him in the performance of his duties that may be approved by the Lieutenant Governor in Council.

(2) Sums required for the purposes of this Act may be paid out of moneys appropriated by the Legislature for the purpose. 1972, c. 87, s. 6; 1973-74, c. 74, s. 1; 1974-75, c. 32, ss. 2, 3; 1976, c. 41, s. 1; 1976-77, c. 54, s. 1; 1978, c. 40, s. 1; 1979, c. 49, s. 2.

Application
of certain
Acts to
Ombudsman
and staff

7.—(1) The Ombudsman is not subject to *The Public Service Act*, except section 54 thereof, and he is subject to *The Public Service Superannuation Act*.

(2) The staff for the Ombudsman shall consist of such persons or positions as are required for the proper administration of this Act.

(3) *The Public Service Act* and *The Public Service Superannuation Act* apply to the members of the staff of the Ombudsman. 1972, c. 87, s. 7.

OMBUDSMAN

Oath of office **8.** The Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Speaker of the Assembly or the Clerk of the Legislative Assembly the following oath:

OATH OF OFFICE.

"I, _____, do swear that I will faithfully and impartially perform and discharge the duties and functions of Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 8.

Name **9.** Every member of the staff of the Ombudsman shall, before entering upon the duties of his office, take and subscribe before the Ombudsman the following oath:

OATH OF OFFICE.

"I, _____, do swear that I will faithfully and impartially perform and discharge the duties and functions of my office as an employee of the Ombudsman and that I will not, except as provided in *The Ombudsman Act*, divulge any information received by me in the exercise of my powers or the performance of my duties and functions under that Act". 1972, c. 87, s. 9.

Secrecy **10.—**(1) The Ombudsman and every member of his staff shall maintain secrecy in respect of all matters that come to his knowledge in the exercise of his powers and the carrying out of his duties and functions under this Act.

(2) Notwithstanding subsection (1) or any oath taken under this Act, the Ombudsman may disclose in a report made by him under this Act any matter that he considers necessary to disclose in order to establish grounds for his conclusions and recommendations. 1972, c. 87, s. 10.

Delegation of powers **11.—**(1) With the prior approval of the Lieutenant Governor in Council the Ombudsman may, by writing under his hand, delegate to any member of his staff any of his powers under this Act except the power of delegation under this section and the power to make a report under this Act.

(2) A delegation may be made to a specified person of the staff of the Ombudsman or to the holder for the time being of a specified office or to the holders of offices of a specified class of the staff.

OMBUDSMAN

(3) Every delegation is revocable at will and no delegation prevents the exercise of any power by the Ombudsman.

(4) A delegation may be made subject to such restrictions and conditions as the Ombudsman thinks fit and may be made either generally or in relation to a particular case or class of cases.

(5) Until a delegation is revoked, it continues in force according to its tenor and where the Ombudsman who made the delegation ceases to hold office the delegation shall continue to have effect as if it was made by his successor.

(6) Where the Ombudsman has delegated a power under this section, the person to whom the power is delegated shall, when required to do so, produce evidence of his authority to exercise the power. 1972, c. 87, s. 11.

Powers,
functions and
duties

12.—(1) It is the duty of the Ombudsman and he has power to investigate any decision or recommendation made, including any recommendation made to a minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by a department or agency of the government or by any officer, employee or member thereof in the exercise of any power, duty or function conferred or imposed on him by any Act whereby any person is or may be aggrieved.

(2) The Ombudsman may make an investigation of a matter either on a written complaint made to him by any person or of his own motion and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission mentioned in subsection (1).

(3) A committee of the Assembly may at any time refer to the Ombudsman for investigation and report any petition or matter that is before the committee for consideration and the Ombudsman shall:

(a) subject to any special directions of the committee, investigate the petition or matter referred to him so far as it is within his jurisdiction; and

(b) make such report to the committee as he thinks fit.

(4) The Lieutenant Governor in Council may at any time refer to the Ombudsman for investigation and report any matter relating to the administration in or by any department or agency of the government or by any officer, employee or member thereof and the Ombudsman shall:

OMBUDSMAN

- (a) subject to any special directions of the Lieutenant Governor in Council, investigate the matter referred to him so far as it is within his jurisdiction; and
- (b) make such report to the Lieutenant Governor in Council as he thinks fit. 1972, c. 87, s. 12.

Complaints
to Ombuds-
man

13.—(1) Every complaint to the Ombudsman shall be made by a person who is, or who before the date of the event that gave rise to the complaint was, a resident of Saskatchewan.

(2) A complaint under this Act may be made in respect of any matter that arises after this Act comes into force or that arose within the twelve months immediately preceding the coming into force of this Act.

(3) No complaint shall be investigated by the Ombudsman unless the complaint was made within twelve months after the event that gave rise to the complaint occurred.

(4) Notwithstanding subsection (3), if the Ombudsman for special reasons to be certified by him concludes that a complaint should be investigated, he may investigate the complaint regardless of when the event that gave rise to the complaint occurred. 1972, c. 87, s. 13.

Ombudsman
not restricted
by provisions
of other Acts

14. The Ombudsman may exercise his powers and shall carry out his duties and functions under this Act notwithstanding anything in any other Act which provides:

- (a) that any decision, recommendation, act or omission that he is investigating is final or that no appeal lies in respect thereof; or
- (b) that no proceeding or decision of the department, agency of the government, officer, employee or person whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called into question. 1972, c. 87, s. 14.

Restrictions
on jurisdic-
tion

15.—(1) Nothing in this Act authorizes the Ombudsman to investigate:

- (a) any decision, recommendation, act, order or omission of the Assembly, a committee of the Assembly, the Lieutenant Governor in Council, the Executive Council or a member or committee of the Executive Council;
- (b) any decision, order or omission of a court, a judge of a court, a referee or local master of a court, a magistrate or a

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justice of the peace made or given in any action or proceeding in the court or before the judge, referee, local master, magistrate or justice of the peace:

- (c) any award, decision, recommendation or omission of an arbitrator, or board of arbitrators, established by or under any Act;
- (d) any decision, recommendation, act or omission in respect of which there is under an Act a right of appeal or objection or a right to apply for a review of the merits of the case to any court or tribunal constituted by or under an Act, whether or not that right of appeal, objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired, unless the Ombudsman is satisfied that in the particular case it would have been unreasonable to expect the complainant to resort to the court or tribunal, but in that case the investigation shall not commence until after the time for the exercise of that right to appeal, object or apply has expired;
- (e) any decision, recommendation, act or omission of any person acting as solicitor or counsel for the Crown in relation to any proceedings;
- (f) any decision, recommendation, act or omission of a deputy minister, an acting deputy minister, associate deputy minister or assistant deputy minister when acting as such or of any person who by virtue of his appointment or actual employment is expressly or by necessary implication directly responsible to a minister;
- (g) any decision, recommendation, act, order or omission of any department or agency of the government, or an officer, employee or person, in relation to any matter arising between the department, agency, officer, employee or person, and the government of another province or the Government of Canada or a municipality or school board.

(2) Where a dispute arises as to whether a person mentioned in clause (f) of subsection (1) is a person who by virtue of his appointment or actual employment is expressly or by necessary implication responsible to a minister, the dispute shall be referred to and be determined by the Attorney General and the decision of the Attorney General is final. 1972, c. 87, s. 15.

Question of
jurisdiction
to investigate

16.—(1) Where any question arises respecting the jurisdiction of the Ombudsman to investigate any case or class of cases under this Act, he may apply to the Court of Queen's Bench or a judge of the

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court sitting in chambers for a declaratory order determining the question.

(2) Notice of an application under subsection (1) shall be served upon the Attorney General not less than fifteen days before the date on which the application is to be heard. 1972, c. 87, s. 16.

Certain correspondence with Ombudsman privileged

17. Notwithstanding any Act, where a letter written by a person in custody on a charge for an offence or after conviction for an offence, or by an inmate of a hospital, mental hospital, facility or institution operated by or under the direction of the government, or by any person in custody of another person for any reason, is addressed to the Ombudsman, it shall be forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer of the letter is detained or in which he is an inmate or by the person having custody of the writer. 1972, c. 87, s. 17.

Refusal to investigate

18.—(1) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate a complaint if:

- (a) it relates to a decision, recommendation, act or omission of which the complainant had knowledge for more than a year before the complaint is received by the Ombudsman;
- (b) in his opinion it is frivolous, vexatious, not made in good faith or concerns a trivial matter;
- (c) in his opinion upon a balance between the public interest and the person aggrieved, it should not be investigated or the investigation should not be continued;
- (d) in his opinion the circumstances of the case do not warrant investigation;
- (e) the complainant does not have a sufficient personal interest in the subject matter of the complaint; or
- (f) during the course of an investigation it appears to him:
 - (i) that under the law or existing administrative practices the complainant has adequate remedy or right of appeal, other than a petition to the Legislature, whether or not the complainant has availed himself of it; or
 - (ii) that, having regard to all the circumstances of the case, further investigation is unnecessary.

(2) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 18.

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Notice of
cessation
etc. of
investigation

19. Where the Ombudsman decides not to investigate, or to cease to investigate, a complaint, he shall inform the complainant of his decision and may, if he thinks fit, state his reasons therefor. 1972, c. 87, s. 19.

Notice of
investigation

20.—(1) Before investigating any matter under this Act the Ombudsman shall notify the deputy minister of the department or the administrative or executive head of the agency of the government affected, as the case may be, of his intention to make the investigation.

(2) The notice shall be in writing and shall set forth the nature of the complaint, if any, received by the Ombudsman.

(3) The Ombudsman may in his discretion at any time during or after an investigation consult with the minister who is concerned in the matter of the investigation.

(4) On the request of the minister in charge of the department or agency of the government or in any case where an investigation relates to any recommendation made to a minister, the Ombudsman shall consult the minister after making the investigation and before forming a final opinion of any matter referred to in subsections (1) and (2) of section 24.

(5) Where, during or after an investigation, the Ombudsman is of the opinion that there is evidence of breach of duty or misconduct on the part of any officer or employee of any department or agency of the government, he shall refer the matter to the minister in charge of the department or agency of the government, as the case may require. 1972, c. 87, s. 20.

Conduct of
investigation

21.—(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hold hearings and hear or obtain information from any person he thinks fit and may make such inquiries as he thinks necessary.

(3) The Ombudsman is not required to hold a hearing and no person is entitled as of right to be heard by the Ombudsman but if at any time it appears to the Ombudsman that there are sufficient grounds for his making a report or recommendation in respect of any matter that may adversely affect any department, agency of the government or person, he shall give to that department, agency or person an opportunity to make representations in respect of the matter and the department, agency or person may make representations in respect of the matter by counsel. 1972, c. 87, s. 21.

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Ombudsman
may require
information
and examine
persons.

22.—(1) Subject to section 23, the Ombudsman may require any person, other than a minister or a person mentioned in clause (f) of subsection (1) of section 15, who in his opinion is able to give any information relating to any matter being investigated by him:

- (a) to furnish information to him; and
- (b) to produce any document or thing that, in his opinion, relates to the matter being investigated and that may be in the possession or under the control of that person;

whether or not that person is an officer, employee or member of the department or agency of the government and whether or not the document, paper or thing is in the custody or under the control of a department or agency of the government.

(2) The Ombudsman may summon before him and examine under oath:

- (a) any person, other than a minister or a person mentioned in clause (f) of section 15, who is an officer, employee or member of any department or agency of the government and who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;
- (b) any complainant; and
- (c) any other person who in the opinion of the Ombudsman is able to give any information relating to any matter being investigated by him;

and for that purpose may administer an oath.

(3) Every examination by the Ombudsman under subsection (2) shall be deemed a judicial proceeding for the purposes of section 120 of the *Criminal Code*.

(4) Subject to section 23:

- (a) a rule of law that authorizes or requires the withholding of any document, paper or thing or the refusal to answer any question on the ground that the disclosure or answer would be injurious to the public interest does not apply in respect of any investigation by or proceedings before the Ombudsman;
- (b) no provision of an Act requiring a person to maintain secrecy in relation to, or not to disclose information relating to, any matter shall apply in respect of an investigation by the Ombudsman and no person who is required by the Ombudsman to furnish any information or to produce any document, paper or thing or who is summoned by the

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Ombudsman to give evidence, shall refuse to furnish the information, produce the document, paper or thing or to answer questions on the ground of such a provision.

(5) Except on the trial of a person for perjury, no statement made by the person or any other person in the course of an investigation by, or any proceedings before, the Ombudsman is admissible in evidence against any person in any court, at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(6) No person shall be prosecuted for an offence against any Act by reason of his compliance with any requirement of the Ombudsman under this section. 1972, c. 87, s. 22.

Disclosure
restricted

23. Where the Attorney General certifies to the Ombudsman that the giving of any information, the answering of any question or the production of any document, paper or writing might involve the disclosure of:

- (a) the deliberations of the Executive Council; or
- (b) proceedings of the Executive Council or a committee of the Executive Council relating to matters of a secret or confidential nature the disclosure of which would be injurious to the public interest;

the Ombudsman shall not require the information or answer to be given or the document, paper or writing to be produced, as the case may be, but shall report the receipt of the certificate in his next annual report. 1972, c. 87, s. 23.

Report on
investigation

24.—(1) Where, after making an investigation under this Act, the Ombudsman is of the opinion:

- (a) that a decision, recommendation, act or omission that is the subject matter of the investigation appears to have been:
 - (i) contrary to law;
 - (ii) unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law, a provision of an Act, or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory;
 - (iii) based in whole or in part on a mistake of law or fact; or
 - (iv) wrong;
- (b) that in making a decision or recommendation, or in doing or omitting an act, a power or right has been exercised:
 - (i) for an improper purpose;
 - (ii) on irrelevant grounds; or

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(iii) on the taking into account of irrelevant considerations;
or

(c) that reasons should have been given for a decision, recommendation, act or omission that was the subject matter of the investigation;

the Ombudsman shall report his opinion and his reasons therefor to the appropriate minister and to the department or agency of the government concerned and may make such recommendations as he thinks fit.

(2) Without limiting the generality of subsection (1), in making a report under that subsection the Ombudsman may recommend:

(a) that a matter should be referred to the appropriate authority for further consideration;

(b) that an omission should be rectified;

(c) that a decision should be cancelled or varied;

(d) that any practice on which a decision, recommendation, act or omission was based should be altered or reviewed;

(e) that any law on which a decision, recommendation, act or omission was based should be reconsidered;

(f) that reasons should be given for any decision, recommendation, act or omission; or

(g) that any other steps should be taken.

(3) This section does not apply to an investigation or report required to be made under subsection (3) or (4) of section 12. 1972, c. 87, s. 24.

Notice of
proposed
steps

25.—(1) Where the Ombudsman makes a recommendation under section 24, he may request the department or agency of the government to notify him within a specified time of the steps that it has taken or proposed to take to give effect to his recommendations.

(2) If, within a reasonable time after a request respecting recommendations is made under this section, no action is taken that seems to the Ombudsman to be adequate or appropriate the Ombudsman after considering the comments, if any, made by or on behalf of the department or agency of the government affected may submit a report of the matter, including a copy of the report containing the recommendation, to the Lieutenant Governor in Council and may thereafter mention the report in his next annual report to the Assembly. 1972, c. 87, s. 25.

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Review of
Ombuds-
man's
decision

26.—(1) Where the Ombudsman makes a recommendation under section 24 and no action that seems to the Ombudsman to be adequate and appropriate is taken thereon within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make such comments on the matter as he thinks fit.

(2) The Ombudsman shall in any event inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation. 1972, c. 87, s. 26.

Proceedings
not subject to
review

27. No proceeding of the Ombudsman is invalid for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be challenged, reviewed, quashed or called into question in any court. 1972, c. 87, s. 27.

Proceedings
against
Ombudsman
prohibited

28.—(1) No proceedings lie against the Ombudsman or against any member of his staff for anything he may do, report or say in the course of the exercise or performance, or intended exercise or performance, of his powers, duties and functions under this Act unless it is shown that he acted in bad faith.

(2) Neither the Ombudsman nor any member of his staff shall be called in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise or performance of his powers, duties and functions under this Act.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the court relating to an investigation by or proceedings before the Ombudsman under this Act is privileged in the same manner as if the investigation or proceedings were proceedings in a court.

(4) For the purposes of *The Libel and Slander Act*, any report made by the Ombudsman under this Act shall be deemed to be privileged and a fair and accurate report thereon in a newspaper or a broadcast shall be deemed to be privileged. 1972, c. 87, s. 28; 1976-77, c. 81, s. 5.

Entry of pre-
mises

29.—(1) For the purposes of this Act, the Ombudsman may at any time enter upon the premises occupied by any department or agency of the government and, subject to section 12, carry out therein any investigation within his jurisdiction.

(2) Before entering upon any premises under subsection (1), the Ombudsman shall notify the deputy minister or administrative head of the department or agency of the government that occupies the premises of his intention to conduct an investigation. 1972, c. 87, s. 29.

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Report by
Ombudsman

30. — (1) The Ombudsman shall make and submit to the Speaker of the Assembly an annual report respecting the exercise of his powers and the performance of his duties and functions under this Act, which shall be laid before the Assembly within fifteen days from the commencement of the session next following the end of the year for which the report is made.

(2) The Ombudsman may from time to time in the public interest or in the interest of any person, department or agency of the government publish reports relating:

- (a) generally to the exercise of his powers and the performance of his duties and functions under this Act; or
- (b) to any particular case investigated by him;

whether or not the matters to be dealt with in any such report have been the subject of a report to the Assembly. 1972, c. 87, s. 30.

Rules for
guidance

31. — (1) The Assembly may:

- (a) of its own volition; or
- (b) upon the recommendation of the Lieutenant Governor in Council;

make rules for the guidance of the Ombudsman in the exercise of his powers and performance of his duties and functions.

(2) Subject to this Act and any rules made under subsection (1), the Ombudsman may determine his procedure and the procedure for the members of his staff in the exercise of the powers conferred and the performance of the duties and functions imposed by this Act. 1972, c. 87, s. 31.

Offences and
penalties

32. Any person who:

- (a) without lawful justification or excuse wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; or
- (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise or performance of his powers, duties and functions under this Act;

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is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding three months or to both fine and imprisonment. 1972, c. 87, s. 32.

Attorney
General may
intervene

33. The Attorney General or counsel appointed by him for the purpose may at any time, without leave of the court or judge, intervene in any action or proceedings taken in any court under section 27 or 28 and no order for costs for or against the Attorney General shall be made as a result of the intervention. 1972, c. 87, s. 33.

Act to pro-
vide addi-
tional
remedies

34. The provisions of this Act are in addition to the provisions of any other Act or rule of law under which any remedy, right of appeal or objection is provided for any person, or any procedure is provided for inquiry into or investigation of any matter and nothing in this Act limits or affects any such remedy, right of appeal, objection or procedure. 1972, c. 87, s. 34.